IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 856 OF 2006
IN
NOTICE OF MOTION NO. 143 OF 2006
IN
NOTICE NO. N/121 OF 2005

Ved Prakash Agarwal]..Judg.Debtor/ Appellant

Vs

M/s. Rama Petrochemicals Ltd.]..Jugt.Creditors /Respondents

Mr. Virag Tulzapurkar, senior counsel with Mr. V.R. Dhond and Mr. Madhur Rai i/b M/s. Negandhi Shah & Himayatullah for the appellant.

Mr. Kishore Jain with Mr. Jayesh Vyas i/b M/s. Bilawala & Co. for the respondents.

CORAM: R.M. LODHA, &
S.A. BOBDE, JJ.

DATED: 04TH DECEMBER, 2006

P.C. :

. After arguing the matter for some time, Mr. Kishore Jain, the counsel for the judgment creditors prayed for withdrawal of Notice No.N/121 of 2005. He prays for liberty to the judgment creditors to take out fresh Insolvency Notice.

2. We find no justifiable reason to decline the prayer of Mr. Kishore Jain for withdrawal of the

Insolvency Notice No.N/121 of 2005. Obviously, in view of withdrawal of the Insolvency Notice by the judgment creditors, the Notice of Motion No.143 of 2006 and the impugned order dated 7th November, 2006, passed on the said Notice of Motion does not survive. All contentions of the parties are kept open to be agitated as and when fresh Insolvency Notice is taken out by the judgment creditors. In that event, it will be open to the judgment debtor to agitate that grounds set out in Section 9(5) of the Presidency Towns Insolvency Act, 1909 are not exhaustive.

3. Appeal is rendered infructuous in what we have stated above and stands disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]